

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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TO: All Commissioners and Alternates
FROM: Will Travis, Executive Director (415/352-3653 travis@bcdc.ca.gov)
Howard Iwata, Assistant Executive Director (415/352-3639 howardi@bcdc.ca.gov)

SUBJECT: Draft Minutes of January 15, 2004 Commission Meeting

1. **Call to Order.** The meeting was called to order by Acting Chair Anne Halsted at the Metro Center Auditorium in Oakland at 1:00 p.m.

2. **Roll Call.** Present were: Acting Chair Anne Halsted, Commissioners Bates, Baird (represented by Alternate Potter), Bell (represented by Alternate Chang), Cutler, Fong, Gioia, Gordon, (represented by Alternate Hill), Kniss (represented by Alternate Carruthers), Lai-Bitker Leal, Lundstrom, G. Morrison, Nack, Rippey, Rose, Ross, and Waldeck. Assembly representative Sevag Sarkissian also attended the meeting.

Not Present were: Governor's Appointee's (Kaufman and McLeod), Sonoma County (Brown), Department of Finance (Klass), Solano County (Kondylis), San Francisco County (Peskin), U.S. Environmental Protection Agency (Schwinn), State Lands Commission (Thayer) and Governor's Appointee (Vacant).

3. **Public Comment Period.** Andrew Bozeman, Bayview Hunters Point, San Francisco, made the following comment:

"I just wanted to register my disagreement with the staff recommendation based upon information that I deal with on a personal basis within the community. I missed the public meeting, me and the flu could not make it together, so I just wanted to go on record as being in opposition to the staff recommendation. I felt there are still some things that need to be considered. Thank you."

Francisco de Costa, Director of Environmental Justice Advocacy, and also representing the first people of San Francisco, made the following comment:

"I believe somehow we missed the public comment on this Item 8, so I disagree totally with staff recommendations and I am just going to read something here so you do not add anything to what you will be discussing. It is a letter that I have from the Office of Historic Preservation. It says, "The General Bridge Act of 1946 requires approval of the location and plans for bridges over navigable waters of the United States prior to commencing construction." And a Coast Guard Bridge Permit will be required for this project and I believe that I can provide the Coast Guard real information to put a stop to this unwanted bridge. Thank you very much."

Amy Panella, San Francisco Bike Coalition made the following comment:

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"I want to really come out in support of the staff recommendation for public access, particularly regarding the bike lanes and not opening the bridge until public access is completely finished. So thank you very much."

4. **Approval of Minutes of December 4, 2003 Meeting.** Commissioner Carruthers moved, seconded by Commissioner Lundstrom to approve the December 4, 2003 minutes. The motion carried with 3 abstentions.

5. **Report of the Chair.** Vice Chair Halsted made the following report:

a. **New Commission Member.** Vice Chair Halsted welcomed Chris Potter back to the Commission. He is serving as Brian Baird's Alternate Representative from the Resources Agency. Chris Potter has been here before as Mike Sweeney's Alternate when Mike Sweeney was representing the Agency.

b. **Next BCDC meeting.** The next regularly scheduled Commission Meeting will be in three weeks on February 5th. It was planned to hold that meeting at the Aquarium of the Bay in Pier 39, however, the Commission had to postpone that field trip until probably April.

Commissioner Carruthers inquired into the number of anticipated future meetings. Mr. Travis indicated because a budget restriction is likely, the Commission will hold only one meeting a month for the foreseeable future.

Vice Chair Halsted continued with her report.

Through the graciousness of Commissioner Annette Rose, Marin County will be hosting BCDC's February 5th meeting which will be held at the Spinnaker Restaurant in Sausalito. At that meeting which will begin at 1:00 p.m., the following matters will be taken up:

(1)The Commission will consider its 2003 Annual Report

(2)The Commission will hold a public hearing and vote on the process that will be used to assess the environmental impact of the consolidation of Cargill's salt-making operations

(3)The Commission will hold a public hearing on an application for a large houseboat marina in Marin County just north of Sausalito

(4)The Commission will receive a briefing on marina water quality study.

Vice Chair Halsted asked if there had been any ex parte communications; there were none reported.

6. **Report of the Executive Director.** Will Travis provided the Commission with the following report:

a. **Budget.** Last Friday, Governor Schwarzenegger released his proposed fiscal year 2004-2005 State Budget, a copy of which was provided to the Commissioners. As explained in the cover memo on the budget, the Governor has proposed about the same amount of funding for the Commission next year as is available for the operations this year. It appears there will be a 20 percent reduction, but that is not so. It is as a result of a one time federal funds being available this year only, so BCDC will have a slight increase in its operating budget and the same staff level. Although this proposed budget will not begin to reverse the cuts that were made over the past two years, the budget is far better news than the possible further cuts that were being contemplated at the last meeting. The next step in the budget process comes when the Legislature takes up the Governor's proposal over the next few months. The Governor's overall budget includes a few billion dollars in unidentified cuts that will have to be negotiated with the Legislature, and is predicated on voter approval of a \$15 Billion bond measure in March. Therefore, there will surely be further budget news over the next few months as the situation unfolds.

b. **Ex Parte Communications Regulations.** Last Friday, staff sent out a report regarding the regulations the Commission adopted last year to carry out its policy on ex parte communications. The Commission put in a lot of time and effort crafting these regulations because it recognized that, despite the desirability of not having ex parte communications; it will be virtually impossible to avoid all such communications. However, as the report explains, a conclusion was made that the regulations cannot be approved in their present form by the Office of Administrative Law because they are inconsistent with some existing provisions of state law that explicitly prohibit all ex parte communications. The Commission has no choice but to comply with this law. And to accomplish this, Mr. Travis has provided the Commissioners with a one-page, four-rule summary of what is in all that complex material that was sent out. Very basically, a Commissioner should not have ex parte communications. If a Commissioner does, these communications must be reported in detail, everybody involved must be notified, and they have an opportunity to offer a differing view. Mr. Travis believed the Commission has two policy options in dealing with this law. First, the Commission can amend the regulations that were recently adopted to bring them into consistency with the law, or the Commission can seek a revision in law that provides specific rules which are similar to those applying to the Coastal Commission, or similar to the regulations adopted by the Commission last year. Whichever option is selected for the foreseeable future, the Commissioners have no option but to comply with this provision of state law that bans ex parte communications and requires them to be reported in detail if they do occur. Staff will prepare revisions to the Commission's existing regulations, to the regulations adopted which are not yet in effect, so that the Commission can consider those in the near future, or can direct staff to try to get legislation that provides special rules for BCDC. Jonathan Smith, BCDC's Staff Attorney, and Joel Jacobs, the Deputy Attorney General, are available if there are any questions about the law.

Commissioner Carruthers wondered what would happen if the Commission did not do anything. If the Commission acknowledge the provisions of state law, that certainly would override whatever the Commission has adopted. He felt reluctant to undertake the staff and the Commission work to do all the revisions, or pursue state legislation.

Jonathan Smith indicated this would be a decision the Commission must make and certainly could do that. The one thing that is significantly different from the regs, which caused the Commission some concern in the past, was the fact that when receiving oral ex parte communications, existing state law would require a Commissioner to prepare a written memorandum and submit that into the record, and that is something the Commission was not happy about previously. So that would change. But beyond that, that is an acceptable approach if the other Commissioners also find it acceptable.

Mr. Travis commented that BCDC's existing regulations are also inconsistent with that law. The Commission has regulations that are on the books that are inconsistent with the law, these are regulations which the Commission has adopted, but are not yet approved which are inconsistent with the law, so one way or the other the Commission should change its existing regulations. For the interim, though, if those four steps that are outlined there are followed, one can ensure that the behavior will be consistent with the law even if nothing is done.

Mr. Smith added that, procedurally at least, it would be simpler and take less staff time to simply delete the single existing section dealing with ex parte communications than it would be to try and amend the ones that were adopted earlier and make them consistent with state law, although staff certainly can do that.

Commissioner Gioia was concerned that there is not a very good public perception to have the regulations of this agency be contrary to state law, especially on this issue. So maybe there should be a direction to staff to prepare in as simple way as possible the necessary amendments

or deletions to comply with state law, and if there is going to be a larger effort involved, to report back to the Commission on that.

With regard to understanding the scope of ex parte communications, if one of the Commissioners in one of their other roles is having a discussion with someone who is an applicant on a subject that has nothing to do with their application, but is on an issue that has to do with one of the other hats that a Commissioner might wear, would that be considered an ex parte communication. Or does the scope of it have to be the subject of the item before this Commission.

Mr. Smith indicated that the scope has to be something that either is or will become a permit, meaning that for permits there has to be an application submitted already, and for an Enforcement action, that BCDC has actually commenced the formal enforcement

7. **Commission Consideration of Administrative Matters.** Steve McAdam was available to answer any questions about the listing. There were none.

8. **Vote on Permit Application No. 2-03; Port of San Francisco for the Illinois Street Intermodal Bridge, in the City and County of San Francisco.** Michelle Levenson presented the staff recommendation and stated that the staff recommends that the Commission approve Application No. 2-03 to the Port of San Francisco to construct the Illinois Street Intermodal Bridge, proposed at the end of Illinois Street and over Islais Creek in the City and County of San Francisco. At the Commission's public hearing on this item which was held on December 4th, 2003 several Commissioners expressed concern regarding the Port's proposal to provide public access on the bridge roughly three years after the bridge was completed. In an attempt to address these concerns, the Port has developed a revised proposal that is captured in Special Condition 2-B-1 on Page 4 of the recommendation. This Special Condition requires the Port to install public access on the bridge prior to opening it to rail or vehicle traffic. Additional conditions have been included in the recommendation to ensure that the bridge is constructed in a manner that minimizes effects on Bay Resources. These include Special Condition 2-D-2 which requires the Port to remove any construction debris associated with the project to a location outside of the Commission's jurisdiction, and Special Condition 2-D-3, which restricts the timing of in-water construction activities to avoid effects to sensitive fishery resources. Lastly, Special Condition 2-E requires the Port to use credits from a previously authorized fill removal project to offset the fill that would be placed with this project. Ms. Levenson called attention to an Errata sheet that was included in the Commissioners' packets, that contains some minor clarifications, and also referred to some formatting issues within the document that staff would like to correct.

Vice Chair Halsted asked if the representatives for the Port of San Francisco, the Applicant, had reviewed and agreed with the staff recommendation.

Ms. Diana Oshima indicated the Port's staff had reviewed it and agreed with it.

MOTION: Commissioner Carruthers moved, seconded by Commissioner Cutler to adopt the staff recommendation.

VOTE: The motion carried on a roll call vote of 16-0-1 with Commissioners Bates, Chang, Potter, Cutler, Gioia, Hill, Carruthers, Lai-Bitker, Leal, Lundstrom, G. Morrison, Nack, Rose, Ross, Waldeck, and Acting Chair Halsted voting "YES" no "NO" votes and Commissioner Rippey abstaining.

9. **Commission Briefing on the Bay Resource Analysis Tool (BayRAT)** Caitlin Sweeney stated that during FY01-02, the Commission developed a project that identified those locations where the siting of a power plant would be inappropriate due to potential impacts such a project would have on Bay resources. In order to develop the Power Plant Non-siting Project, it was necessary to obtain considerable data such as information on Bay habitat types, the presence of endangered species, the location of wildlife areas, marinas, park lands, and public access, and map that

information in a series of overlays in a Geographic Information System, or GIS. The Power Plant Non-siting Project provided the Commission with a spatial component to its data that it did not have before, and expanded staff's opportunities for analysis and research. It was apparent that this geographically displayed data would be useful to staff in many ways beyond analyzing proposed power plant locations. However, in order to utilize the information in the Power Plant Non-siting Project, a staff person would have to go to BCDC's single GIS capable computer and would have to be trained in the operation and the use of GIS. So, building upon the work undertaken for the power plant and non-siting project, staff investigated ways in which the geospatial data that exists in the Non-siting Project could be made easily available to staff. To pursue this mission, the Commission received a grant from the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management to develop a pilot project, the Bay Resource Analysis Tool, or BayRAT. The objectives of BayRAT were to identify, obtain, configure and distribute geospatial data, including existing data from outside agencies and organizations, as well as new data developed from the Commission's files, to expand the analysis and research capabilities of the Commission. Specifically, BayRAT eliminates the limitations of the Power Plant Non-siting Project by providing access to geospatial data in an easy-to-use format, accessible on every staff person's desktop computer, enabling Commission staff to effectively and efficiently gather and analyze multiple types and sources of information for better informed planning policy and regulatory functions.

Ms. Sweeney explained how the staff might use this tool on a day to day basis, i.e. for review and analysis of a proposed project; by looking at potentially sensitive resources in the area, data for federally and state listed threatened and endangered species, land use data, and information on permits that have already been approved in the area. Staff working on BayRAT have been coordinating with staff working on the Permit Tracking System, and BayRAT has been specifically designed to allow for future linkage of the system.

Ms. Sweeney explained that BayRAT is a pilot project staff developed in-house with limited staff resources on a minimal budget. Over the next six months the staff will have a chance to experiment with using BayRAT in their day-to-day work, and will be evaluating the usefulness of the tool and determining what, if any, resources can be invested in the maintenance, update, and improvement of BayRAT. Maintaining BayRAT in its current configuration would require some but fairly minimal staff resources, keeping the natural resource data up to date and updating the Priority Use Areas. Staff can fairly easily keep the natural resource data up to date as it generally only requires receiving updates from other agencies and then inputting that data into BayRAT. The staff time required is minimal. Most of the information is free of charge and those data that are currently paid for are available at a very minimal cost. Keeping the Priority Use Area data up to date also requires minimal staff time. The Commission approves approximately one Bay Plan Amendment per year that would require a revision to the Priority Use Area data. However, keeping the permit and the public access data up to date would require the allocation of more staff time. Currently, the Commission approves approximately 12 major permits and 85 minor permits per year that would require inputting into BayRAT, and of those permits approximately 90 percent of the majors and maybe 20 percent of the minors include a public access requirement that would require revision of the public access data layer. Staff estimates that updating the permit and public access data layers would require approximately 8-10 hours a month of staff time. Improving the usefulness of the tool by expanding it beyond its current configuration would require investment of a higher level of staff time and resources. For example, the historical permit and public access data in the pilot version of BayRAT is complete for all the major permits, but incomplete for the minor permits. Completing data entry for past minor permits would be time consuming, perhaps on the order of 200 plus hours, but it is a one-time resource need. And a complete historical data set for all permits and associated public access would clearly improve the usefulness of this type of tool. In addition, improving the data that already exist in BayRAT would also improve the usefulness of the tool. Obtaining more recent aerial

photographs would greatly improve the accuracy and the usefulness of the tool. In addition, updated aerial photographs would improve BCDC's consistency with other agencies that make use of geospatial data. It would be great if the three regional land use and transportation agencies – BCDC, MTC, and ABAG could utilize some common base maps. However, there is a cost associated with obtaining more recent aerial photos along the lines of \$5,000 to \$10,000 or more. Finally, it is certainly possible to add more data to BayRAT if staff determines certain data would improve the usefulness of the tool. For example, the location and associated information of enforcement cases could be added. This type of geographically based information would be very helpful for the enforcement staff, but again would of course require staff time and resources to both input and maintain the data.

In conclusion, Ms. Sweeney indicated that the creation of BayRAT as a pilot project has given Commission staff easy access to extremely useful geospatial data on their individual desktop computers, expanding the Commission's opportunities for analysis and research, facilitating the sharing of information among agencies that make use of geospatial data, and also saving valuable staff time spent tracking down information, particularly historical permit data. Almost all the data was obtained from other agencies or organizations. The only data generated in-house were the priority use areas, the BCDC public access, and the permit locations.

Commissioner Gus Morrison inquired if staff had talked to the various cities and counties which have their own GIS systems to talk about sharing data.

Ms. Sweeney stated staff had done so to some degree and certainly will continue dialogue on sharing valuable data between agencies.

Commissioner Gus Morrison related his experience with this system.

Commissioner Fong inquired if it would be possible to overlay the 100-foot shoreline band and Ms. Sweeney indicated this is possible but that the resolution is limited by the aerial photographs being used.

Commissioner Carruthers expressed concern for relating to the subtidal areas of the Bay, and asked what resources are there in terms of maps and GIS compatible data regarding subtidal conditions.

Ms. Sweeney replied that there are some data at this point. Staff has some basic bathymetry data, and some habitat information such as eelgrass beds. Staff is always on the look-out for more data and agencies such as NOAA have been helpful.

Responding to a question by Commissioner Lai-Bitker regarding inputting the minor permits, Ms. Sweeney indicated that having the minor data in the system would be tremendously useful for staff. Since it may be on the order of 20 percent of the minors that also include public access, that is also a very important piece of data to have available in order to have a complete picture of history.

Commissioner Gioia referred to the fact that there are a number of permits that have been issued for developments along the Bay, residential developments, where there was vegetation required as part of the permits. As years move on, some of these plants grow, blocking people's view of the Bay, and becomes an issue about what is required vegetation vs. other plantings. He wondered if this system would make it easy to address those types of situations to determine whose responsibility it is for maintenance, whether it is the right plant, etc.

Ms. Sweeney stated that in its current format, BayRAT could certainly assist staff members in locating specific permits that may or may not have that associated information, so that they could go to the appropriate files quickly to look up that information. There is a lot more information on permits in the Permit Tracking System. Staff is trying to keep the information in

BayRAT very brief, but again with the intent that these two systems could be linked in the future.

Mr. Travis thanked and complimented Caitlin for her hard work. He related that the office runs Macintoshes and BayRAT actually operates on a PC. Caitlin has been able to establish the links so that every staff member at their Macintosh can access the system and get the data without ever having been trained.

Vice Chair Halsted asked what the likelihood would be of staff being able to address the minor permits in the next year. Mr. Travis said staff will certainly continue to pursue federal grants. This is the kind of thing where after the economy comes back and California gets out of its budget problems, staff will certainly be pursuing state funding for this kind of thing. It is clearly an investment that will pay off. What it does is not make staff's jobs easier, but it makes the quality of analysis better, so it will really pay off in the long-run. This investment will have to be made and staff will be looking under every rock and place possible to search for funding to make it happen.

10. Briefing on the Middle Harbor Enhancement Area, Port of Oakland, City of Oakland, Alameda County, U.S. Army Corps of Engineers and Port of Oakland. Andrea Gaut informed the Commission that in December of 2000, it authorized the Port of Oakland and the U.S. Army Corps of Engineers to proceed with the 50 Foot deepening project for the Port of Oakland Federal Navigation channels, which would generate approximately 13.4 million cubic yards of dredge material. At the same time, the Commission also authorized the re-use of approximately 5.8 million cubic yards of the material generated from the deepening project at the Port's Middle Harbor. This project would create a shallow water habitat in the Middle Harbor. Since the project was authorized, its funding has been delayed and, thus, its completion date. Last year BCDC authorized the Port of Oakland to re-use up to 70,000 cubic yards of material from the deepening of Berths 20-24 in the Middle Harbor. Staff found that the environmental document for the 50 foot project always included the deepening of the berths as a portion of the project and it was always expected that the Port would request approval for berth deepening separate from the Corp's authorization to deepen the federal navigation channels. Coincidentally, BCDC just received a request from the Port to deepen Berths 35 and 37 and also re-use up to an additional 86,000 cubic yards of material at the Middle Harbor. The Commission will be receiving a briefing on the project today because several project stakeholders, in particular, Save the Bay, wanted the Commission to know the delay in the project's completion. In particular, Save the Bay noted that the authorization of the Middle Harbor Enhancement Area was in part to mitigate for habitat impacts from the -50 Foot project. Thus, Save the Bay's concern was whether project impacts are really being mitigated if the completion of the Middle Harbor Enhancement area is delayed. To give the Commission a more detailed briefing on the project and its status, Lt. Colonel McCormick of the U.S. Army Corps of Engineers and Mr. Jim McGrath and Mr. Andy Jahn from the Port of Oakland was introduced.

Lt. Colonel McCormick, District Engineer for the San Francisco District stated that the Corps' mission remains providing civil works projects to build the nation's long-term economic might in an environmentally sustainable way. This project, the Oakland -50-Foot Project demonstrates that District's mission to a greater degree than any of the other over 100 projects that the District currently has.

In essence, the project is deepening the Port from a -42-Foot authorization to a -50-Foot authorization in both the outer harbor and the inner harbor. Besides deepening the navigation channels, the project includes widening both the inner and outer turning basins and various support features, including utility re-locations, building demolitions, and aids to navigation. There are large economic benefits associated with this project and it has an 8:1 BC ratio, and the Corps estimates that the project will generate over 9,000 new jobs and \$60 Million in additional tax revenue.

Central to the actual deepening is 13 million cubic yards, all being disposed of either in a beneficial fashion, (i.e., 2.5 million cubic yards going to Hamilton and commencing in June of '05, 3 million cubic yards to Montezuma). As far as the upland disposal 500,000 cubic yards are going to be used for construction fill or disposed of upland.

Construction started in October of 2001 and the progress has been slower than originally anticipated because of lower than expected federal funding levels.

He then highlighted funding difficulties in federal and approvals received.

Jim McGrath next addressed the Commission. He stated that Middle Harbor is part of the reason the project allowed the Port to re-use material and do habitat restoration, rather than simply take all the material to the ocean. When the original feasibility analysis was made, the ocean was the cheapest alternative, and the upland and wetland re-use projects were much more expensive. But Middle Harbor was so much cheaper that, when one combined the three, it was only slightly more expensive. It is anticipated that reuse of material at Middle Harbor is going to be more than slightly expensive. He commended a group of technical experts and agency people who worked on the design of this so that it was not really the Port of Oakland's design, but it was a cooperative design process. A commitment was made, unique in wetland restoration, to an adaptive management program. Part of making sure that BCDC understood and believed that this design process was adequate was a third party review process which was done by a firm selected by BCDC and was involved in developing the design, reviewing the design, and helping design the Adaptive Management Program. It includes the construction process and also a ten-year performance evaluation period to make sure that the system is working. It is important to note that the design compliments the new public park. The adaptive management portion of the project will go on throughout the entire site development. It involves monitoring construction activities to make sure that the regulatory restrictions are incorporated, making sure that the material is going where it is supposed to go, is accurately tracked. It includes refining of the design models as construction progresses, monitoring of the settling rates, and so forth. Site physical and biological conditions will be monitored throughout the ten-year performance evaluation process and will be modified. And after that is completed and any corrective work is done, the Port will be responsible for long term management of this.

The variables that will be monitored at the site are also going to be dynamic because this is going to be a natural system; it is going to be a system that is going to be affected by tides, waves, and storms. It includes the bathymetry or the depth, the presence of eelgrass, and there is a commitment in mitigation to realize the success and progression of the small marsh, the number and trends in fish and invertebrates, birds, and human use and whether or not they are issued. Through discussion with David Lewis, David expressed concern that the project might go forward and have adverse impacts to eelgrass that would not be mitigated in a timely manner. That is not the case. The eelgrass has been monitored and there has not been a significant impact to it as yet. In fact, although the density is down a little bit, the acreage is up a little bit. It is interesting that in the area where the marsh is proposed there is a beach already from the construction project containing a little eelgrass.

Historically, in about 1930, the area in question was a mudflat and sand flat. It was filled to construct the Naval Supply Center for the war effort. The Middle Harbor Shoreline Park is nearly complete.

As far as economic impact, there has been some adverse impact on the Port, not as much as it would have if the economy had been booming. With the current construction contracts, the Port is going to be able to get the harbor to about -46 feet by the end of this calendar year, which will begin to generate some economic benefits. The redevelopment of the berths' project, the redevelopment of the Fleet Industrial Supply Center or Naval Supply Center is now complete. The terminals are operating.

The fact that this base was being abandoned by the government provided a rare opportunity to restore a beach and provide in-Bay habitat through redevelopment of that site, and integrate the reconstruction of that site and the dredging project. As part of that, the beach is complete and as far as is known, that is the first beach restoration project in San Francisco Bay. Jim stated that he felt confident the creation of that beach and the other shallow shoreline features in this system have created habitat for shorebirds and for other birds that feed on small fish that were eliminated when the Naval Supply Center was built. It is a rare irony to see dredging restored in an area that was in fact destroyed or damaged seriously by dredging and ship building. It shows that it is possible to create a beach that has substantial habitat value, but it cannot be done without the placement of fill within the Bay.

As far as the economics of the project and the responsibility, he urged the Commission to understand the use of economic forces, not merely regulatory forces, and to figure out how to restore the Bay and how to get agencies like the Port of Oakland and like the Port of San Francisco to do things which are appropriate and figure out ways to do them so they can afford them. Unlike the Hamilton Project or the Montezuma Project, the Middle Harbor Project does not require any outside funding. In fact, it is so much cheaper than ocean disposal that it helps, in fact, subsidize the Hamilton and Montezuma elements of the project. The habitat restoration project may cost twice as much as the ocean disposal and there are two ways to get that. Finding federal subsidies is going to be tougher and tougher to get because attention has focused on the Middle East and other issues. Middle Harbor, however, is so much cheaper that it becomes affordable. Mr. McGrath believed the cost estimates for the project is going to be \$10 or \$15 million more. But if it would be possible to take habitat restoration with dredge material beyond the Oakland project, if it is possible complete Hamilton, complete Montezuma, move on to Skaggs, move on to the salt ponds in the South and the North Bay, then there must be a way to figure out ways to bring those costs down.

Andy Jahn provided additional information about this project with the help of slides, showing what nature has done by way of action, building a bar across the channel, and actually creating a little tide pool.

He explained the reason for not having any data at all yet. The monitoring is not supposed to start for another six or seven years but he has other monitoring obligations as a result of the deepening project. The U.S. Fish and Wildlife Service in their Biological Opinion wanted the Port to monitor the turbidity created in Inner Harbor by the dredging because of the presence here in Alameda of the Least Tern colony. This is an endangered sea bird that nests there and forages in the Bay near the island.

This brand new habitat was instantly successful in attracting the kinds of fish that are needed to support birds like the least tern. The pond contains some little fish, larval and juvenile fish in the family called silver sides, that is represented by top smelt, jack smelt and California Grunion. These are all fish that spawn on substrate. The grunion, of course, is famous for actually spawning in the sand on the beach up above the mean tide line. And these fish are quite small, which is what the least tern needs. These little fish were not around because there was no habitat for them at that time. So this is kind of a qualitative demonstration that the fish that these birds need, the fish that this Commission required the Port to produce as a result of this project, are there already.

In '97 all the birds in Middle Harbor were monitored for a period of six months and in that entire time 75 shorebirds were counted and yet, the habitat part of this project is nowhere near built yet.

Len Cardoza, the program manager clarified that the sand was dredged material from the Bay.

Commissioner Carruthers asked if there might be other locations where soft edges, such as beaches, might be desirable and that possibly fill associated with those soft edges would be part of the dynamic of either creating or preserving or keeping the beach?

Mr. McGrath concurred and used as an example the Eastshore State Park containing the Albany Bulb. This little corner in it has collected a natural beach. That is a site where one could enhance that beach and also enhance shorebird habitat.

11. Consideration of Strategic Plan Status. Mr. Travis referred to a January 9th status report and recommended a few changes in deadlines. In the budget for the current year there is a substantial amount of federal funding. The Governor's budget has approved the expenditure of those funds which is why it is in the budget, but the Commission still does not actually have the money. Until there is the cash in hand, there are a number of projects there that cannot be started.

Commissioner Carruthers asked if all the money has to be spent within the fiscal year, or could it be carried over into the next year.

Mr. Travis said it can be carried over. The bulk of the money is earmarked for pass-through to local governments and other grant recipients, so BCDC has the authority this year and then if for whatever reason it cannot go out the door fast enough, it can be carried over to next year.

MOTION: Commissioner Gus Morrison moved, seconded by Commissioner Lundstrom to adopt the recommendation. The motion carried by voice vote.

12. Old Business. There was no old business

13. New Business. There was no new business.

14. Adjournment. There being no further old or new business and upon motion by Commissioner Carruthers, seconded by Commissioner Hill, the meeting adjourned at 3:20 p.m.

Respectfully submitted,

WILL TRAVIS
Executive Director

Approved, with no corrections, at the
San Francisco Bay Conservation and
Development Commission Meeting
of February 5, 2004

BARBARA KAUFMAN, Chair